

REMARKS

Claim 1 has been amended to specify that the magazine comprises a number of storage chutes, each chute being sized to accommodate cuvettes being generally rectangular (see Fig. 5 of the application) and stacked one atop another therein.

Claim Rejections –35 USC §103

Claims 1-6 are rejected under 35 USC 103(a) as being unpatentable over Link (US 6,098,819) in view of US Patent 6,321,609 to Mengel et al. Link teaches a magazine comprising a rectangular storage area having opposing walls (5, 6) and opposing walls (7, 8). Wall (9), in the middle of the storage area, creates two storage compartments for holding pipette tips. Within each storage compartment, there exist two pairs of ribs (25, 26) which protrude from the walls into the storage compartment. There also exists a "flat pad" and "flat ledge" that protrude into the storage compartment. Link further discloses tabs (15, 16) and hooks (21) that aid in locking one rack of pipette tips to another rack.

Most importantly, as the Examiner has noted, Link differs from the claimed invention in that there is no disclosure of curved front and back walls.

The Examiner turned to Mengel et al for disclosing a sampling tube magazine having compartments (153) for holding tubes (16), and these compartments or slots are sized corresponding to the sampling tube to be stored. The Examiner notes that Mengel's slots are curved on a front and back side.

The Examiner states that it would have been obvious "to use curved walls where the tubes or cuvettes being stored in the magazine are roundly-shaped so that the tubes have a better fit in the magazine". (Underlining added for emphasis) It is correct that Mengel uses curved walls to store a tube body (30) having a round cross-section (see FIGs. 2 and 3). Thus, Mengel teaches that in order for tubes to have a better fit in a storage magazine, the front and back walls have the same shape as the cross-section of

the tubes being stored therein. Consequently, in order to provide a storage magazine having a better fit for cuvettes having a rectangular cross-section, Mengel teaches the use of a magazine having rectangular front and back walls.

Applying the combined teachings of Link and Mengel, if Link's magazine was modified in combination with Mengel as suggested to accommodate generally rectangular reaction cuvettes, one skilled in the art would provide a magazine having rectangular front and back walls. In complete contrast, the claimed magazine accommodates cuvettes having a generally rectangular box-shaped cross-section as seen in FIG. 5 and described in paragraph [0032] and yet is claimed as a "rectangular storage cell having curved front and back surfaces between a top and a bottom". In other words, the combination of Link and Mengel teaches against the claimed invention.

Because the combination of Link and Mengel teaches against the claimed invention, Applicant respectfully requests that the rejection of the claimed invention over the combination of Link and Mengel be withdrawn.

Conclusion

Applicant believes that this application contains patentable subject matter and that the foregoing amendments provide a basis for favorable consideration and allowance of all claims; such allowance is respectfully requested. If any matter needs to be resolved before allowance, the Examiner is encouraged to call Applicant's representative at the number provided below.

Respectfully submitted,



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